

CURTIS HARDY	§	
VS.	§	CIVIL ACTION NO. 1:07-CV-615
DOUGLAS BYRD	§	

Plaintiff Curtis Hardy, a federal prison, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to the Federal Tort Claims Act (FTCA) and *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against Douglas Byrd.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Defendant filed objections to the magistrate judge's Report and Recommendation.

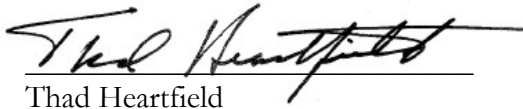
The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). Defendant contends that plaintiff failed to state a claim upon which relief may be granted because he suffered de minimis injuries. Accepting

plaintiff's allegations as true, the court is unable to conclude that being unable to walk is a de minimis injury. Therefore, after careful consideration, the court concludes the objections are without merit.

**ORDER**

Accordingly, defendant's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Defendant's motion to dismiss is **GRANTED** with respect to the FTCA claim. The motion is **DENIED** with respect to the constitutional claim. A partial judgment will be entered in accordance with the magistrate judge's recommendation.

**SIGNED** this the **21** day of **July, 2009**.

  
Thad Heartfield  
United States District Judge